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29/11/47

Form 12-57-58, 604-4-11-48

HQME

(194 7) Department.

MS **SERIES.**

G.O. NO. 4180

Dated 13th November 1947.

Boyle

P-8
(E)

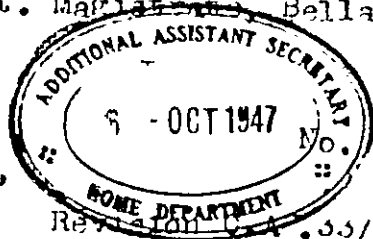
[Despatch Abstract.]

Criminal Appeal - Appeal against acquittal - Bellary district - Sessions Judge,
Bellary - C.A. No. 33 of 1947 - Application - Sanctioned.

From
K.N. Anantaraman, Esq., I.C.S.,
Dist. Magistrate, Bellary.

To

The Secretary to Government,
(Home Department) Fort St.
George, Madras.



Sir,

No. 1884/47 Man. dated 27.9.47.
Rev. 101 C-4 33/47 on the file of the Sessions Judge - Bellary

Revision of appellate Judgments by moving the High court
revision requested.

54 (a) In U.C.No. 271/47 on the file of Addl. First Class Magistrate Bellary the ~~Sessions Judge~~ Sub Inspector of Police Kanpli filed a charge sheet against the accused (1) Matapatny Jagan Narian and
of 1st p (2) Madiga Thippaiah for an offence under Sec. 7 of the Essential Supplies (Temporary) powers Act 1946. The Magistrate after trial found the accused guilty and convicted and sentenced A.1 to undergo
of 2nd p 55 Rigorous imprisonment for 2 months and A.2 to pay a fine of Rs. 10/- in default to undergo Rigorous Imprisonment for a month. The 1st.

accused M.J. Narian preferred an appeal to the Sessions Judge Bellary against the orders of the Addl. First Class Magistrate Bellary. The Sessions Judge Bellary allowed the appeal and reversed the sentence of the lower court on the ground that the order of the Commissioner of Civil Supplies and the publication of it have not been properly proved.

The matter was referred to the Public Prosecutor Bellary

P.T.O

He is of opinion that under the Essential Supplies (Temporary Powers) Act of 1946 the provisions of Rule 119 of the Defence of India Rules are omitted and that all the rulings under the D.O.I. Act do not apply as the new Act is concerned in view of the omission from the Act the provisions of Rule 119. He further states that oral evidence has been adduced to the effect that the notification which was contravened has been duly published; that the Court can take judicial notice of such publications and that the contention of the learned Sessions Judge Bellary in holding that the said notification ought to have been filed in court is not right. I entirely agree with these views.

P3---

3. I therefore request that the Government may be pleased to move the High Court in revision to ~~xxxxxx~~ revise the orders of the Sessions Judge Bellary under Sec. 439 Cr.P.C.



The copies of the Judgments of the lower court and the appellate court and the opinion of the Public Prosecutor Bellary are enclosed. P3

H. N. Gnanapavan 28/9/47

Home department Collector & Dist.

Madras, 28.9.47.

Endorsement No. 69326F/47 - *dated 10X47* Magistrate. District

Referred to the Public Prosecutor, Madras

11/10/47 9-9-47

3 months 9 2 67

for remarks on the proposal of the District Magistrate, Bellary. The reply to this reference should be sent not later than 5-11-47.

U. Chari
Secretary to Government

To The Public Prosecutor, Madras
With C.F. and judgment copies at
The Public Prosecutor, Madras
He returned with reply (R.D. 6-11-47).

V.L.ETHIRAJ ESQ., C.I.E.,
Bar-at-Law.,
Public Prosecutor, Madras.

To
The Secretary to Government,
Home Department, Madras.

Opn.No.105/47, dated 4th Novr.1947.

Sir,

Sub: Appeal against acquittal - C.A.33/47, Sessions Judge,
Bellary - C.C.271/47 A.F.C.M.Bellary - Forwarding opinion.

Plante

With reference to Endorsement No.69326 F/47-1; Home, dated
10-10-47, I have the honour to forward herewith my opinion in the
above matter.

2. The papers received for reference are returned herewith.

I have the honour to be,
Sir,
Your most obedient servant

V.L. Ethiraj
Public Prosecutor.

Opinion.

Para 4 p 23
met put up
The Sessions Judge has acquitted the accused who was convicted
by the Addl. First Class Magistrate, Bellary for transporting paddy
without permit, offence under Sec.7 of the Essential Supplies (Temporary

86
Powers) Act 1946 on the ground that the notification or the order
contravened has not been proved to have been issued or published.
The learned Judge has failed to note that the notification in
question was published in the Gazette and there is no special
mode of publication prescribed in the Essential Supplies (Temporary
Powers) Act of 1946. - The lower appellate Court ought to have
taken judicial notice of the publication in the Gazette. I am of
opinion that an appeal against acquittal is likely to be successful.

H. S. Thray
Public Prosecutor.

R/

24/
4-11-47

9/17/1947
C. No. 69326 F/47

Home dept.

G.O. No. No. 1180 d 13-11-47

Criminal appeal - Appeal against
acquittal - Bellary dt. - Sessions Judge
Bellary - C.A. No. 33 of 1947 - Application
Sanctioned.

Read:

PP1-20F

From the D.M., Bellary No. 1884/47 Mc
d 27-9-47.

PP7-80F

From the P.P., Madras Gpu. No. 105/
d 14-4-47.

ORDER

Under section 417 of the Code of
Criminal Procedure, 1898, the Public
Prosecutor, Madras is requested to
present an appeal to the High Court
against the acquittal by the Session
Judge, Bellary of the appellant in

180F

C. A. No. 33 of 1947 on his file

To Don
7/11/47 11.11.47

Haf
12/11/47 12/11

To ^{(m) with serial}
The Public Prosecutor
Madras.

(with copy of ppt-25-F and
pse-f. word. and record
at @)

The D.M., Bellary

Don

The D.M. of jurisdiction

P.1 of @ 9-9-47

3 months & 2 p.m.

9-12-47

Note:- The draft order above follows the
opinion of the P.P., Madras at pp 7-8 C.F.

To Don
7/11/47 11.11.47

Haf
12/11/47 12/11

[Issued as G.O. MS. No. 4180, Home @ 13.11.47]